

**THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY****Writ Petition No.21231 of 2021****ORDER:**

Assailing the order, dated 02.09.2021, passed by the 2nd respondent, dismissing the second appeal preferred by the petitioner, and rejecting his claim to register his name as a voter in the elector roll of Duggirala Village of 87-Mangalagiri Assembly Constituency, the present Writ Petition for a mandamus has been filed by the petitioner.

2) Factual matrix of the *lis* may briefly be stated as follows:

The petitioner is originally the resident of Duggirala village. He was born and brought up in the said village and he has pursued his studies in the said village. Thereafter, he was selected for Indian Administrative Service and he was allotted to the cadre of the erstwhile State of Andhra Pradesh. In pursuance of his employment in the Indian Administrative Service, he resided at various places where he was posted during the period of his employment in the State of Andhra Pradesh. He retired on 31.03.2016 on attaining the age of superannuation. On the next day, i.e. on 01.04.2016, he was appointed as State Election Commissioner of the Andhra Pradesh State Election Commission, for a period of five years.



He assumed charge as the State Election Commissioner of the Andhra Pradesh State Election Commission on 01.04.2016. While he was working as the State Election Commissioner, he has submitted an application in Form-VI on 21.12.2020 for inclusion of his name as a voter as the resident of house bearing D.No.2-54, Main Road of Duggirala village in electoral roll of the 87-Mangalagiri Assembly Constituency, under Section 23(1) of the Representation of the People Act, 1950, to the Electoral Registration Officer of 87-Mangalagiri Assembly Constituency-cum-Special Deputy Collector.

3) The Electoral Registration Officer enquired into the matter and as his enquiry revealed that the petitioner is not the “ordinarily resident” of Duggirala village and that he is not residing in the house bearing D.No.2-54, Main Road of Duggirala village, he has rejected his application by his order, dated 21.01.2021. Aggrieved thereby, he has preferred an appeal to the District Election Officer, Guntur, challenging the legal validity of the order of the Electoral Registration Officer. The first appellate Authority, by his order, dated 01.04.2021, has dismissed the said appeal affirming the order of the Electoral Registration Officer. It is held in his order that the



petitioner is not found to be ordinarily residing in Duggirala village in the house bearing D.No.2-54 of the said village and he also recorded a finding to that effect and dismissed the appeal.

4) Aggrieved thereby, the petitioner has preferred second appeal, as contemplated under Section 24 of the Representation of the People Act, 1950, to the Chief Electoral Officer and the Appellate Authority, Andhra Pradesh. The second appellate Authority, by his order, dated 02.09.2021, has also dismissed the said appeal confirming the orders of the Electoral Registration Officer and the first appellate Authority, as the second appellate Authority also found that the petitioner is not the ordinarily resident of Duggirala village as he is not residing in the given address in the house bearing No.2-54 of the said village.

5) Therefore, aggrieved by the impugned order of the second appellate Authority, the instant Writ Petition has been filed by the petitioner for a mandamus, challenging the legal validity of the said order and to set aside the impugned order and sought direction to the respondents to register the name of the



petitioner as a voter in the electoral roll of the 87-Mangalagiri Assembly Constituency.

6) The 2nd respondent – Chief Electoral Officer and the Appellate Authority, filed counter-affidavit opposing the claim of the writ petitioner. It is pleaded that the application, dated 21.12.2020, submitted by the petitioner, to register him as a voter as the resident of the house bearing D.No.2-54, Main Road, Duggirala village, in the electoral roll of the 87-Mangalagiri Assembly Constituency, was forwarded by the Electoral Registration Officer to the Booth Level Officer (for brevity “B.L.O”) of the concerned Polling Station, where the said house is situate, for enquiry and report and the B.L.O. submitted his report stating that the petitioner is not residing in the said house and his mother is only currently living in the said house and that the petitioner is only occasionally visiting the said house. The Village Revenue Officer and the B.L.O., also personally visited the said house and made an enquiry after serving notice on the petitioner and at that time also they found that the petitioner is not residing in the said house and he is only visiting the said house occasionally to see his mother. It is pleaded in the counter-affidavit that the petitioner is



actually residing in Hyderabad at the time of filing the said application and was working in Vijayawada as State Election Commissioner of the Andhra Pradesh State Election Commission. So, it is stated that as he is not found to be the “ordinarily resident” of the Duggirala Village, that the Electoral Registration Officer, the first appellate Authority and the second appellate Authority as well, have rejected his application. Therefore, it is prayed to dismiss the Writ Petition.

7) A rejoinder was filed by the petitioner stating that mere expressing the intention of the petitioner to reside and stay at a particular place is sufficient to claim for registration as a voter in the said Constituency and as the petitioner clearly expressed his intention to reside in his house in the said village after completion of his tenure as State Election Commissioner that he is entitled to be registered as a voter in his home town.

8) When the Writ Petition came up for hearing, heard both learned counsel for the petitioner Sri N.Ashwani Kumar, and learned Senior Counsel Sri Avinash Desai, appearing on behalf of Sri D.S. Siva Darshan, learned Standing Counsel for 1st respondent Election Commission of India; learned Government



Pleader for G.A.D. and learned Government Pleader for Revenue, for other respondents, at length.

9) Before deciding the main controversy involved in this Writ Petition, one preliminary issue is required to be resolved. Rule 14(a) of the Writ Proceedings Rules, 1977 of High Court of Andhra Pradesh, mandates that certain writ petitions, which are enumerated therein, shall be heard by a Bench of two Judges i.e. by a Division Bench. The writ petitions, which are shown in sub-clauses (i) to (vi) of Rule 14(a), therefore, shall be heard only by a Bench of two Judges. Sub-clause (ii) thereof pertains to writ petitions relating to elections under the Representation of the People Act, 1951 and it enjoins that the said writ petitions shall be heard by a Bench of two Judges. While hearing another writ petition filed under the provisions of the Representation of the People Act, 1950, relating to preparation of electoral rolls pertaining to the election of State Legislative Council, an objection was raised in the said writ petition by the counsel for one of the respondents therein stating that as per sub-clause (ii) of Rule 14(a), the writ petition relating to election under the Representation of the People Act has to be heard by a Division Bench and the single Judge



cannot hear the writ petition. Therefore, this Court entertained a doubt whether a single Judge can hear the present Writ Petition also. So, the matter is reopened to hear on that point.

10) At the time of hearing, learned Senior Counsel Sri Avinash Desai, appearing on behalf of Sri D.S. Siva Darshan, learned Standing Counsel for the 1st respondent Election Commission of India, would fairly concede that in view of the express language employed in sub-rule (ii) of Rule 14(a) of the Writ Proceedings Rules, 1977, only the writ petitions filed in relation to election under the Representation of the People Act, 1951, alone are to be heard by a Bench of two Judges. He would submit that this writ petition is not pertaining to an election under the Representation of the People Act, 1951 and it only relates to preparation of electoral roll and registration of name of the petitioner in the electoral roll of a particular constituency under the Representation of the People Act, 1950, and it is not specifically stated in Rule 14(a)(ii) that even the writ petitions filed under the Representation of the People Act, 1950, shall also be heard by a Bench of two Judges.



11) Even the learned counsel for the petitioner is also in agreement with the said contention and he would also contend that this is a writ petition filed relating to orders passed under the Representation of the People Act, 1950 and this writ petition is not relating to conduct of election under the Representation of the People Act, 1951 and a such, it need not be heard by a Bench of two Judges and a single Judge is perfectly competent to hear the Writ Petition.

12) Sub-rule (ii) of Rule 14(a) of the Writ Proceedings Rules, 1977, which is relevant in the context to consider, reads thus:

“14(a). The following petitions shall be heard by a Bench of two Judges:

(i).....

(ii) Petitions relating to Elections under **the Representation of the People Act, 1951.**”

(iii)....

(iv).....

(v)

(vi)....

(b) All other petitions shall be posted before a Single Judge who may, if he thinks fit, refer any of them to a Bench of two Judges.”

13) Therefore, it is obvious and evident from the above rule that only the writ petitions filed in relation to elections under the Representation of the People Act, 1951, alone are to be



heard by a Bench of two Judges. The said Rule does not say that even the writ petitions filed challenging the orders passed under the Representation of the People Act, 1950 shall be heard by a Bench of two Judges.

14) There are two enactments relating to the elections of the Parliament and Assembly Constituencies and the Legislative Council of a State. They are, the Representation of the People Act, 1950 and the Representation of the People Act, 1951. The first enactment i.e. the Representation of the People Act, 1950, has been enacted for the purpose of allocation of seats in the House of Parliament and State Legislative Assemblies in terms of Articles 81 and 170 of the Constitution of India in fixing the total number of seats in the Legislative Assemblies of different States and it also provides for registration of electors/voters for Parliamentary Constituencies and for the Assembly and Council Constituencies in the States and also deals with the qualifications and disqualifications for such registration as voters. The said Act has nothing to do with the actual conduct of the elections. It deals only with the process of preparation for conduct of the elections by allotting seats in the House of the People in different States of the Legislative Assemblies and



in preparing the electoral rolls by registering the voters/electors of the respective Assembly Constituencies and the Parliamentary Constituencies in the country. The other enactment i.e. the Representation of the People Act, 1951, deals with the actual conduct of the elections to the Houses of Parliament and to the Houses of the Legislative Assembly and the Council in the States and the said Act specifically deals with the qualification and disqualifications of Membership of those Houses, the corrupt practices and other offences in connection with such elections and the decision of election disputes arising out of or in connection with such elections. So, both the enactments are two different enactments which operate in two different fields and spheres. The first Act of the year 1950 pertains to preparatory process to be made to conduct the elections and the second Act of the year 1951 deals with actual conduct of the elections. So, Act 1950 is only precursor and a forerunner to 1951 Act. Therefore, it is only the Writ Petitions that are filed under the Act, 1951, relating to conduct of elections alone are required to be heard by a Bench of two Judges. The writ petitions filed under the Act, 1950, are, therefore, shall be heard only by a single Judge. The said



position is made clear under Rule 14(b) of the aforesaid Rules, which states that all other petitions, i.e. other than the petitions enumerated in Rule 14(a) sub-clauses (i) to (vi), shall be posted before a single Judge for hearing.

15) As the present Writ Petition is filed questioning the orders that are passed under the Act, 1950, it is well within the competence of a single Judge to hear the same and decide the same. Therefore, the preliminary issue is answered accordingly.

16) Reverting to the facts of the case to adjudicate the *lis* involved in this Writ Petition, the controversy mainly relates to the fact whether the petitioner is the “ordinarily resident” of the Duggirala Village or not for the purpose of registering his name as an elector in the electoral roll of the 87-Mangalagiri Assembly Constituency, as a resident of the house bearing D.No.2-54, Main Road, Duggirala village.

17) As noticed supra, while narrating the facts of the case at the outset in extenso, the petitioner is originally the resident of Duggirala village, where he was born and brought up and where his ancestral house is situate. But, after his selection in All India Services as an I.A.S. Officer, as he was allotted to the



Andhra Pradesh State Cadre, he has not been residing in Duggirala village and he has been residing at various places, where he is posted in pursuance of his employment. He was also registered as a voter in one of the Assembly Constituencies in Hyderabad. He retired from the service on attaining the age of superannuation on 31.03.2016. But, even after his retirement, he did not shift his residence to Duggirala Village as he was appointed on the very next day of his retirement i.e. on 01.04.2016 as State Election Commissioner of the Andhra Pradesh State Election Commission. He assumed charge of the said office on 01.04.2016 itself. However, the record reveals that he has been actually residing in Hyderabad and visiting Vijayawada to attend his duties as State Election Commissioner.

18) While he was working in his post-retirement assignment as State Election Commissioner of the Andhra Pradesh State Election Commission, he has submitted an application in Form-VI, under Section 23(1) of the Representation of the People Act, 1950, before the Electoral Registration Officer of 87-Mangalagiri Assembly Constituency, on 21.12.2020, to register his name as a voter as the resident of the house bearing



D.No.2-54, Main Road, Duggirala village, in the electoral roll of the 87-Mangalagiri Assembly Constituency.

19) As noticed supra, an enquiry was ordered by the Electoral Registration Officer and the Booth Level Officer was directed to enquire and to submit his report and he submitted his report stating that the petitioner is not residing in the said village or in the said house and his mother has been actually residing currently in the said house and the petitioner is only occasionally visiting the said house. Based on the said report, as it was found that the petitioner is not actually residing in the said house and in the said village, his request to register him as a voter in the said Constituency was rejected by the Electoral Registration Officer, by his order, dated 21.01.2021. The first appellate Authority also affirmed the said finding, stating that as the petitioner is not the “ordinarily resident” of the said village as he is not actually residing in the said house and in the said village, that he is not entitled to be registered as a voter in the said Constituency and thereby dismissed the first appeal. According to him, the place of residence must be permanent in character and not temporary or casual to satisfy the legal



requirement of “ordinarily resident” of a place to register a person as a voter in the said Constituency.

20) The same view was taken by the second appellate Authority also after considering the material available on record and came to a conclusion that a flying visit or occasional visit is not sufficient to hold a person as “ordinarily resident” of the said place to register him as a voter in the Constituency. According to the first appellate Authority and the second appellate Authority, even in the Manual on Electoral Roll, 2016, issued by the Election Commission of India, to determine whether a person is “ordinarily resident” of the said place for the purpose of registering him as a voter in the said constituency or not, that mere ownership of a dwelling house or possession thereof is not sufficient to hold that a person is “ordinarily resident” of the said place and even though the said person need not be eating in that place, but he should be sleeping regularly at that place. Therefore, considering the said guidelines issued in the Manual on Electoral Roll, 2016, by the Election Commission of India, and various judicial pronouncements rendered on the issue, the second appellate Authority also held that the petitioner is not entitled for



registration as a voter in the said Constituency and rejected the request of the petitioner by the impugned order.

21) Chapter-III of the Representation of the People Act, 1950, deals with preparation of electoral rolls for Assembly Constituencies. It consists of Sections 14 to 25. Section 16 thereof deals with disqualification for registration in an electoral roll and Section 19 deals with the conditions of registration as a voter in the electoral roll. Section 19 is relevant in the context to consider and it reads thus:

“19. **Conditions of registration:-** Subject to the foregoing provisions of this Part, every person who—
(a) is not less than eighteen years of age on the qualifying date, and
(b) is ordinarily resident in a constituency, shall be entitled to be registered in the electoral roll for that constituency.”

22) So, two conditions are to be satisfied as per Section 19 for the purpose of registering the name of a person as a voter in the electoral roll of the Assembly Constituency. One is that a person shall not be less than eighteen years of age on the qualifying date, and the second one is that he shall be ordinarily resident in a constituency to be entitled to be registered as a voter in electoral roll of that constituency. The meaning of “ordinarily resident” as envisaged in clause (b) of



Section 19, has been given in Section 20 of the said Act and it reads thus:

“20. Meaning of “ordinarily resident”:-- (1) A person shall not be deemed to be ordinarily resident in a constituency on the ground only that he owns; or is in possession of, a dwelling house therein.

(1A) A person absenting himself temporarily from his place of ordinarily residence shall not by reason thereof cease to be ordinarily resident therein.

(1B) A Member of Parliament or of the Legislature of a State shall not during the term of his office cease to be ordinarily resident in the constituency in the electoral roll of which he is registered as an elector at the time of his election as such member, by reason of his absence from that constituency in connection with his duties as such member.]

(2) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness, or who is detained in prison or other legal custody at any place, shall not by reason thereof be deemed to be ordinarily resident therein.

(3) Any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but for his having such service qualification, he would have been ordinarily resident on that date.

(4) Any person holding any office in India declared by the President in consultation with the Election Commission to be an office to which the provisions of this sub-section apply, shall be deemed to be ordinarily resident (x x x) on any date in the constituency in which, but for the holding of any such office (x x x), he would have been ordinarily resident (x x x) on that date.

(5) The statement of any such person as is referred to in sub-section (3) or sub-section (4) made in the prescribed form and



verified in the prescribed manner, that but for his having the service qualification or but for his holding any such office (x x x) as is referred to in sub-section (4) he would have been ordinarily resident in a specified place (x x x) on any date, shall, in the absence of evidence to the contrary, be accepted as correct.

(6) The wife of any such person as is referred to in sub-section (3) or sub-section (4) shall if she be ordinarily residing with such person (x x x) be deemed to be ordinarily resident on (x x x) in the constituency specified by such person under sub-section (5).

(7) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and to such rules as may be made in this behalf by the Central Government in consultation with the Election Commission.

(8) In sub-sections (3) and (5) “service qualification” means—

(a) being a member of the armed forces of the Union; or

(b) being a member of a force to which the provisions of the Army Act, 1950 (46 of 1950), have been made applicable whether with or without modifications; or

(c) being a member of an armed police force of a State, who is serving outside that State; or

(d) being a person who is employed under the Government of India, in a post outside India.”

23) Clause (1) thereof makes it clear that a person shall not be deemed to be “ordinarily resident” in a constituency on the ground only that he owns or is in possession of a dwelling house in the Constituency. In the instant case, the petitioner contends that he owns an ancestral house in Duggirala village and his father has settled that house in the name of the



children of the petitioner and his mother and he is the guardian of the children and his mother and as such, he owns a house in Duggirala village and even though he is residing in other places in pursuance of his employment that he is frequently visiting his house in Duggirala village and as such, he is entitled to be registered as a voter, as a resident of the said house in the said constituency as he intends to settle permanently in the said village after his retirement and after completion of his tenure as the State Election Commissioner of the Andhra Pradesh State Election Commission.

24) As ownership of a dwelling house at a particular place is not sufficient to hold a person as “ordinarily resident” of the said place as has been clearly stated and explained in clause (1) of Section 20, the mere fact that the petitioner and his family members own a house in Duggirala village cannot be a valid ground to hold him as a person of “ordinarily resident” of Duggirala village for the purpose of registering his name as a voter in the said constituency.

25) Learned counsel for the petitioner has invoked clause (1A) of Section 20, to bolster his contention that the petitioner is



entitled to be registered as a voter in the said constituency. As clause (1A) of Section 20 says that a person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be “ordinarily resident” therein, invoking the same, he would contend that as, admittedly, the petitioner is the native of Duggirala village and on account of his temporary absence from that place because of his employment, it cannot be held that he is not the ordinarily resident of the said village. The said contention is devoid of merit and it cannot be countenanced. The expression “absenting temporarily” has been considered in many cases by the Courts and has been interpreted. Illustrations have been also given stating that if a person who is permanently residing at a particular place leaves the place temporarily in pursuance of his business or other avocation for a short time and again returns to his place of residence, then it cannot be held that he is not the ordinarily resident of the said place. In the instant case, the petitioner has left the Duggirala village long back when he secured employment in Indian Administrative Service and has been residing elsewhere in pursuance of his employment and has been only occasionally visiting the said



house to see his mother. So, his case will not fall within the ambit of Section 20(1A) of the Act.

26) Clause (7) of Section 20 also says that if in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined with reference to all the facts of the case and such Rules as may be made in this behalf by the Central Government in consultation with the Election Commission. Therefore, the said question relating to the fact whether the petitioner is ordinarily resident of Duggirala village or not has to be decided with reference to all the facts of the case as discussed supra and the only irresistible conclusion that can be arrived at after considering the facts and circumstances of the case is that the petitioner is not actually residing in the house bearing D.No.2-54, Main Road, Duggirala village and he has been residing elsewhere in pursuance of his employment and even after his retirement, in view of his post-retirement assignment that he has been only occasionally visiting the Duggirala village. So, the cumulative effect of all these facts and circumstances of the case is that it leads only to the inference and the conclusion that he is not actually



residing as a permanent resident in Duggirala village at the given address.

27) In **Election Commission of India v. Manmohan Singh**¹, the Apex Court has approved the finding of the High Court on the interpretation given of the words “ordinarily resident”. It is interpreted as follows:

“The “ordinarily resident” in a constituency as mentioned in the Representation of the People Act, 1950, shall mean a habitual resident of that place or a resident as a matter of fact in regular, normal or usual course. It means an usual and normal resident of that place. The residence must be permanent in character and not temporary or casual. It must be as above for a considerable time, and he must have the intention to dwell permanently. He must have a settled abode at that place for a considerable length of time for which a reasonable man will accept him as the resident of that State.”

28) These requirements are not satisfied by the petitioner showing that he is habitual resident of Duggirala village and the said residence is of permanent character and not temporary or casual. It is not shown that he got a settled abode at that place for a considerable length of time.

29) Even clause (3) of Section 20 is not applicable to the case of the petitioner. Clause (3) of Section 20 of the 1950 Act is a

¹ (2000) 1 SCC 591



deeming clause. It says that any person having a service qualification shall be deemed to be ordinarily resident on any date in the constituency in which, but, for his having such service qualification, he would have been ordinarily resident on that date. But, what are the service qualifications that come within the purview of clause (3) of Section 20 is explained in clause (8) of Section 20 and it says only a person (a) being a member of the armed forces of the Union; or (b) being a member of a force to which the provisions of the Army Act, 1950, have been made applicable whether with or without modifications; or (c) being a member of an armed police force of a State, who is serving outside that State; or (d) being a person who is employed under the Government of India, in a post outside India. The petitioner does not have any such service qualification to invoke the deeming clause. It is only those employees, who are covered by clause (8), which explains 'service qualification' as contemplated in clause (3) of Section 20 can invoke the deeming clause and claim to be the "ordinarily resident" of that constituency even though they are residing elsewhere in pursuance of the said employment. So, Section 20 clause (3) shall be read along with Section 20 clause



(8) of the 1950 Act. A combined reading of both clause (3) and clause (8) of Section 20 makes the above position clear.

30) When a person actually resides elsewhere and he only expresses his intention to reside at a particular place in future upon happening of an event namely after his retirement, he cannot on the basis of mere expression of intention to settle at a particular place in future claim to register him as a voter in that constituency without actually settling at that place and making the said place as his permanent abode. It will not satisfy the legal requirement of being “ordinarily resident” to claim for registration as a voter in the electoral roll of that constituency. So, the contention of the learned counsel for the petitioner that mere expression of the intention of the petitioner to settle at his native place after his retirement is sufficient to register his name as a voter in that constituency, cannot be countenanced.

31) The judgment relied on by the learned counsel for the petitioner rendered in the case of **Sunil Kumar Kori v. Gopal Das Kabra**² has no application to the present facts of the case. It was a case relating to registration of voters in Cantonment

² (2016) 10 SCC 467



Boards. The preparation of elector rolls is covered by Rule 10(3) of Cantonment Electoral Rules, 2007. Therefore, the said judgment is not of any use to the case pleaded by the petitioner.

32) The other judgment relied on by the learned counsel for the petitioner in **Kuldip Nayar v. Union of India**³ is also not applicable to the present facts of the case. That was a case dealing with qualification of membership of Rajya Sabha. Removal of requirement of residence or domicile in the electing State as a qualification for election to Rajaya Sabha is the issue involved in the said case. The Apex Court held that residence is not the essence of the structure of the Upper House and as such, Parliament has chosen not to require a residential qualification and it does not violate the basic feature of federalism. Though the Apex Court held in the said judgment that some of the sub-sections of Section 20 of the 1950 Act collectively indicate that temporary absence on account of certain specified exigencies cannot disrupt the ordinary resident status of an individual, it was so held in the context of deciding the dispute relating to the qualification of Rajya Sabha

³ (2006) 7 SCC 1



Member. The interpretation given to the said term ‘temporary absence’ in the said context cannot be used and applied in the present case where there is absence of long period for decades together in his village due to his employment.

33) As noticed supra, mere expression of his intention that he would permanently settle at his native place after his retirement or after the tenure of his post-retirement assignment is completed, by itself, is not sufficient to hold him as the “ordinarily resident” for the purpose of registering his name as a voter in the electoral roll of the said constituency. He must actually reside there with an intention to make the said place as his permanent abode. Then only he can seek registration of his name as a voter in the said voters list.

34) Therefore, the impugned orders passed by the Electoral Registration Officer, the first appellate Authority and the second appellate Authority recording a concurrent finding which is based on evidence are perfectly sustainable under law and they warrant no interference in this Writ Petition and they are not liable to be set aside. After considering the correct legal position relating to the issue and the controversy involved in



the *lis* and on proper interpretation of the relevant provisions of law, they have arrived at a right conclusion and rejected the request of the petitioner as it is found that he is not the “ordinarily resident” of Duggirala village living permanently at that place. This Court does not find any legal flaw or infirmity in the impugned orders passed by all the Authorities concerned.

35) The petitioner now expresses his intention to permanently settle and reside in his ancestral house bearing D.No.2-54, Main Road of Duggirala village, after his retirement. He also got his vote in Hyderabad cancelled. Admittedly, the petitioner now retired from All India Service on 31.03.2016 after attaining the age of superannuation. His tenure in his post retirement assignment as the State Election Commissioner of the Andhra Pradesh State Election Commission is also completed on 31.03.2021. Therefore, if the petitioner has actually settled in Duggirala village after 31.03.2021, as per his intention, which he expressed in his application and is actually residing in Duggirala village, as a permanent resident, which satisfies the expression “ordinarily resident” as contemplated under Section 19(b) of the Act, he is at liberty to submit a fresh application



seeking registration of his name as an elector in the electoral roll of the 87-Mangalagiri Assembly Constituency. If any such application is filed, satisfying requirements of law, as discussed supra, the same has to be considered by the Electoral Registration Officer and pass appropriate orders accordingly as per law within a reasonable time.

36) In fine, the Writ Petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date:13.07.2023.

Note:
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***HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

+ Writ Petition No.21231 of 2021

% Dated 13-07-2023

Dr. N.Ramesh Kumar, I.A.S.

..... Petitioner

Vs.

\$ The Election Commission of India rep. by Chief Election
Commissioner, New Delhi & Ors.

.....Respondents

! Counsel for the petitioner : Sri N.Ashwani Kumar,
learned counsel.

^ Counsel for 1st respondent: Sri Avinash Deasi,
learned Senior Counsel,
appearing on behalf of
Sri D.S.Siva Darshan,
learned Standing Counsel for Election
Commission of India.

Counsel for respondents 2 to 5: Learned Government Pleader for
G.A.D, and learned Government
Pleader for Revenue.

<GIST:

> HEAD NOTE:

? Cases referred:

¹ (2000) 1 SCC 591

² (2016) 10 SCC 467

³ (2006) 7 SCC 1



IN THE HIGH COURT OF THE STATE OF ANDHRA PRADESH

Writ Petition No.21231 of 2021

Dr. N.Ramesh Kumar, I.A.S.

..... Petitioner

Vs.

The Election Commission of India rep. by Chief Election
 Commissioner, New Delhi & Ors.

.....Respondents

ORDER PRONOUNCED ON: 13-07-2023

HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

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|--|-------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | -- |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | -Yes- |
| 3. Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? | -Yes- |

JUSTICE CHEEKATI MANAVENDRANATH ROY